

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

LAROBERT LEE TISDALE

PLAINTIFF

v.

CIVIL ACTION NO. 1:24-cv-335-TBM-RPM

DOLLAR GENERAL CORPORATION

DEFENDANT

ORDER AND MEMORANDUM OPINION

This matter came before the Court on the Motion to Dismiss [6] filed by Defendant Dollar General Corporation on December 18, 2024. In response to Dollar General's Motion to Dismiss [6], Plaintiff LaRobert Lee Tisdale filed a Motion [10] to amend his complaint, which was granted. As a result, Tisdale filed an Amended Complaint [12] on February 10, 2025, and the operative Complaint [15] on February 19, 2025.

“[T]he filing of an amended complaint will ordinarily moot a pending motion to dismiss unless the amended complaint ‘on its face’ fails to address the alleged defects identified in the motion to dismiss.” *Johansen v. Myers*, No. 1:23-cv-6-LG, 2023 WL 5498060, *2 (S.D. Miss. Aug. 24, 2023) (citation omitted); *Polk v. Psychiatric Prof'l Servs., Inc.*, No. 09-cv-799, 2010 WL 1908252, at *2 (S.D. Ohio Mar. 29, 2010) (“[W]hen a motion to amend only addresses a discrete issue, it may not moot the underlying motion to dismiss.”). Tisdale's Corrected First Amended Complaint [15], on its face, appears to attempt to address the alleged defects identified in the Motion to Dismiss [6]. Regardless, by filing its new Motion to Dismiss [16], which contains modified and updated arguments that attack the operative Complaint [15] and its new allegations, Dollar General seems to agree the original Motion to Dismiss [6] is moot. *Rivera v. BMW of North America, LLC*, No. 2:19-cv-7, 2019 WL 2539200, *1 (N.D. Tex. Mar. 14, 2019).

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant Dollar General Corporation's Motion to Dismiss [6] is DENIED WITHOUT PREJUDICE as moot.

This, the 16th day of June, 2025.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE